

# BRAVERMAN KASKEY

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May 13, 2011

**Via Email**

Ms. Donzetta Thomas  
Senior Assistant Regional Counsel  
U.S. EPA, Region III  
1650 Arch Street  
Mailcode (3RC50)  
Philadelphia, PA 19107

**Re: Arsenal Associates LP**  
**Dkt. No.: CAA-3-2011-0143DA**

Dear Ms. Thomas:

I am writing to follow up on our telephone conversation last week respecting the Work Plan submitted by Arsenal Associates LP pursuant to Administrative Compliance Order Paragraph 55F and, critically, to renew Arsenal Associates' urgent request to commence demolition of Building No. 44. Arsenal Associates has reached a watershed in the development process and, if its demolition activities are not restarted in the immediate future, the entire project may be shut down, perhaps permanently,

On May 11, 2011, the City of Philadelphia finally approved, *inter alia*, Arsenal Associates' Asbestos Investigation Report ("AIR") for Building No. 44 submitted in anticipation of demolition and, therefore, issued a demolition permit for the building. Please recall that, as stated in Arsenal Associates' Work Plan, Building No. 44 was inspected by Eagle, which issued its Inspection Report dated January 17, 2011. A copy of the Inspection Report was attached to Arsenal Associates' Work Plan as Exhibit "S." The building was remediated by DVR pursuant to applicable laws, rules and regulations and, subsequently, re-inspected by Eagle. Eagle issued four Final Clearance Inspection Reports, three were dated March 8, 2011 and one was dated March 21, 2011, all with which were attached, collectively, to Arsenal Associates Work Plan as Exhibit "T." Now that the City has approved Arsenal Associates' AIR and issued a demolition permit, EPA's immediate authorization to commence demolition is the last remaining step prior to the commencement of demolition.

Absent EPA's immediate authorization to commence demolition of Building No. 44, Haines and Kibblehouse, the demolition contractor, has indicated that it will be pulling its equipment off the job since it has no further work, and it cannot estimate when or if it will return its equipment to restart the demolition project (a copy of the letter is enclosed). Similarly, Delaware Valley Remediation, LLC ("DVR"), a primary asbestos removal company, has substantially completed all the available work on the site and has indicated that it cannot afford to have its equipment on the job if the work does not continue. It cannot commit to Arsenal Associates when it would be able to return to the job. Perhaps more important, approximately two-thirds of Arsenal Associates' funding for the demolition project, represented by a grant, is currently at risk if the demolition project cannot be completed within the time frame for the funding. Additionally, as these grants are being reviewed in light of funding issues, unless demolition restarts in the immediate future, the grant funds could be diverted to another project and no longer available for use at the Arsenal.

Finally, I am enclosing a letter from the Baltimore District of the U.S. Army Corps of Engineers, expressing the Corps' "serious concerns regarding the continued delay of Arsenal demolition activities" and the impact such delay has had upon the removal and offsite disposal of contaminated soils underlying certain buildings at the site, including Buildings Nos. 47 (for which the pad site of Building No. 44 is needed for the staging of the restoration material to replace the contaminated soil removed from the Building No. 47 pad), 55, 58, 230 and 231. The Corps has advised Arsenal Associates that, "[a]s a result of these continuing delays, the Corps' ability to complete the required work has been severely impacted and additional costs have been incurred to keep the necessary resources available for this project. Therefore, the Corps will not mobilize to the site until [it] receive[s] confirmation from [Arsenal Associates] that all permitting for demolition of the above-mentioned buildings has been approved and demolition of the building is scheduled to begin." A copy of the Army Corps letter dated March 16, 2011 is enclosed.

Against this background, we request: (i) authorization to commence demolition of Building No. 44 by May 30, 2011, the date specified in the Asbestos Abatement and Demolition/Renovation Notification Form filed by Haines and Kibblehouse with AMS; and (ii) approval of Arsenal Associates' Work Plan, submitted on April 27, 2011. Alternatively, we request a meeting next week with you and other EPA representatives

BK

Ms. Donzetta Thomas  
May 13, 2011  
Page 3

with an eye towards the goal of approval of the Work Plan and restarting the demolition process at the Arsenal Business Center at the earliest possible moment.

Your prompt attention is solicited and, as always, your cooperation is appreciated.

Very Truly Yours,

  
David L. Braverman

cc: Ms. Christine Convery, EPA  
Jeff Forester, Air Management Services  
Michelle S. Walker, Esquire



May 10, 2011

Mark Hankin  
Arsenal Associates  
P.O. Box 26767  
Elkins Park, PA 19027

re: Frankford Arsenal Demo  
Subject: Project Schedule

Dear Mark,

This letter is to put Arsenal Associates on notice that due to a lack of new demolition permits being issued by the city of Philadelphia for this specific project, Haines and Kibblehouse, Inc. will start to demobilize its forces starting the week of May 23, 2011. By the week of May 23, 2011, Haines and Kibblehouse, Inc. will have completed the demolition of all the building structures that have been issued permits. There are some buildings that have been issued permits, but they have been revoked and/or placed on hold by agencies of the city of Philadelphia.

Building 48 still remains a major concern to Haines and Kibblehouse, Inc. due to the fact that the asbestos on the piping is still exposed to the elements and that the stability of the structure is questionable due to the fact that Haines and Kibblehouse, Inc. had to stop all work, because Air Management Services would not permit the removal of the asbestos on the piping. The asbestos is exposed to the elements and may deteriorate and cause an even greater problem in the near future.

In addition, the situation with the underground tunnels is causing an additional problem. Because all work has been stopped in the abatement of the tunnels, Haines and Kibblehouse, Inc. is not able to finish started building demolition on various buildings.

All of these issues are of great concern to Haines and Kibblehouse, Inc. and our contractual obligation to Arsenal Associates. Haines and Kibblehouse, Inc. has no intention of breaching its contract, but once demobilized from this project, there is no guarantee as to when it will be able to remobilize. In addition to this, the contract price will have to be readjusted for delays beyond Haines and Kibblehouse's control.

Sincerely,

A handwritten signature in black ink, appearing to read "Linas Kucas". The signature is stylized with a large loop at the beginning and a long horizontal stroke at the end.

Linas Kucas

correspondence #: 0005

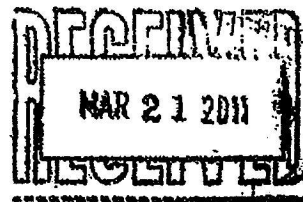


DEPARTMENT OF THE ARMY  
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS  
P.O. BOX 1716  
BALTIMORE, MD 21203-1716  
March 16, 2011

REPLY TO  
ATTENTION OF  
Engineering Division

SUBJECT: Building Demolition Schedule Delay, Former Frankford Arsenal,  
Formerly Used Defense Site (FUDS), Philadelphia, PA, Site Number  
C03PA004201

Mr. Mark Hankin  
Arsenal Business Center  
2275 Bridge Street  
Philadelphia, PA 19137



Dear Mr. Hankin,

As a follow up to our meeting last week, this letter serves as a formal notice of the U.S. Army Corps of Engineers ("the Corps") serious concerns regarding the continued delay of Arsenal demolition activities in the "Redevelopment Area". Three (3) Areas of Concern (AOCs) remain to be remediated as part of the Interim Removal Action (IRA) FUDS Project currently being conducted by the Corps at your site. These AOCs have not been remediated due to the building demolition delays at the site which has caused significant schedule delays for the Corps. As you know, these AOCs and identified contaminants of concern were identified during the ongoing Remedial Investigation (RI) phase of this Project.

The specific buildings impacting our access are: 47/48, 55/58 and 230/231.

- Bldgs. 47/48, the soils have been impacted by trichloroethylene (TCE) at detections which exceed the Medium Specific Concentrations (MSC). Approximately 4,700 square feet of soils are impacted based on our current sampling data.
- Bldgs. 55/58, TCE and Polychlorinated biphenyls (PCBs) Aroclor 1260 were detected at concentrations exceeding their respective MSCs. Approximately 5,000 square feet of soils are impacted based on our current sampling data.

- Bldgs. 230/231, the soils have been impacted by metals (arsenic and lead), Perchloroethylene (PCE), TCE and 2,4-Dinitrotoluene (DNT) at concentrations exceeding their respective MSCs. Approximately 2,000 square feet of soils are impacted based on our current sampling data.

The soils under these buildings need to be removed and disposed of off-site. The Corps has been prepared and ready to perform this remediation work for a number of months, based on your projected demolition schedule. As a result of these continuing delays, the Corps' ability to complete the required work has been severely impacted and additional cost has been incurred to keep the necessary resources available for this project. Therefore, the Corps will not mobilize to the site until we receive confirmation from you that all permitting for demolition of the above-mentioned buildings has been approved and demolition of the buildings is scheduled to begin.

The Corps will continue to work with you to accomplish this removal task in a timely manner. Should you have any questions concerning this request, please contact me at 410-962-0030.

Sincerely,

*Brenda M Barber, P.E., CHMM*

Brenda M. Barber, P.E., CHMM  
Project Manager  
USACE, Baltimore District

Cc: Brooke Weese, Esq., Huntington Construction  
Brent Graybill, EMDC-HN  
Nicki Fatherly, EMDC-HN  
EDMC file